

Amendment No. 1 to SB0565

Johnson
Signature of Sponsor

AMEND Senate Bill No. 565*

House Bill No. 937

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 21, is amended by deleting the part and substituting instead the following:

49-7-2101. Short title.

This part shall be known and may be cited as the "Revised Uniform Athlete Agents Act".

49-7-2102. Definitions.

As used in this part:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract;

(2) "Athlete agent":

(A) Means an individual, whether or not registered under this part, who:

(i) Directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization or enrollment at any college, university, or community or junior college that offers an athletic scholarship to the student athlete;

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(ii) For compensation or in anticipation of compensation related to a student athlete's participation in athletics:

(a) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

(b) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(iii) In anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics:

(a) Gives consideration to the student athlete or another person;

(b) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(c) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes;

(B) Does not include an individual who:

(i) Acts solely on behalf of a professional sports team or organization; or

(ii) Is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(a) Also recruits or solicits the athlete to enter into an agency contract;

(b) Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(c) Receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete;

(3) "Athletic director" means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Commission" means the Commission on Interstate Registration of Athlete Agents;

(5) "Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university;

(6) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party

any value that the athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(7) "Enrolled" means registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning;

(8) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics;

(9) "Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities;

(10) "Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing;

(11) "Person" means an individual; estate; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity;

(12) "Professional-sports-services contract" means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization;

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(14) "Recruit" or "solicit" means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The terms do not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent;

(15) "Registration" means registration as an athlete agent under this part;

(16) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process;

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(18) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

49-7-2103. Authority; procedure.

(a) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, applies to this part. The secretary of state may adopt rules under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this part.

(b) A person, resident or nonresident, who does business in this state as an athlete agent, regardless of whether such person is registered pursuant to this part, shall:

(1) By so doing, consent to the jurisdiction of the courts of this state;

(2) Be subject to suit in this state; and

(3) Be deemed to have appointed the secretary of state as such person's agent to accept service of process in any civil action related to such person doing business as an athlete agent that is commenced against such person in this state.

(c) The secretary of state or the secretary's designee may:

(1) Conduct public or private investigations, within or outside of this state, which the secretary deems necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this part or a rule adopted under this part, or to aid in the enforcement of this part or in the adoption of rules and forms under this part;

(2) Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this part or a rule adopted under this part, if the secretary determines it is necessary or appropriate in the public interest.

(d) For purposes of conducting an investigation under this part, the secretary or the secretary's designee may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the secretary considers relevant or material to the investigation.

49-7-2104. Athlete agent: registration required; void contract.

(a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this state without holding a certificate of registration under this part.

(b) Before being issued a certificate of registration under this part an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(1) A student athlete or another person acting on behalf of the athlete initiates communication with the individual; and

(2) Not later than seven (7) days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

49-7-2105. Registration as athlete agent; application; requirements; reciprocal registration.

(a) An applicant for registration as an athlete agent shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. An application filed under this section is a public record for purposes of title 10, chapter 7. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) The name, date, and place of birth of the applicant and the following contact information for the applicant:

(A) The address of the applicant's principal place of business;

(B) Work and mobile telephone numbers; and

(C) Any means of communicating electronically, including a facsimile number, electronic mail address, and personal and business or employer websites;

(2) The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) Each social media account with which the applicant or the applicant's business or employer is affiliated;

(4) Each business or occupation in which the applicant engaged within five (5) years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) A description of the applicant's:

(A) Formal training as an athlete agent;

(B) Practical experience as an athlete agent; and

(C) Educational background relating to the applicant's activities as an athlete agent;

(6) The name of each student athlete for whom the applicant acted as an athlete agent within five (5) years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last known team;

(7) The name and address of each person that:

(A) Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a corporation; and

(B) Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the corporation;

(8) A description of the status of any application by the applicant, or any person named under subdivision (a)(7), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(9) Whether the applicant, or any person named under subdivision (a)(7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:

(A) The crime;

(B) The law enforcement agency involved; and

(C) If applicable, the date of the conviction and the fine or penalty imposed;

(10) Whether, within fifteen (15) years before the date of application, the applicant, or any person named under subdivision (a)(7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;

(11) Whether the applicant, or any person named under subdivision (a)(7), has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;

(12) Whether, within ten (10) years before the date of application, the applicant, or any person named under subdivision (a)(7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(13) Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision (a)(7), made a false, misleading, deceptive, or fraudulent representation;

(14) Each instance in which conduct of the applicant, or any person named under subdivision (a)(7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic sport,

intercollegiate sport, or professional athletic event on a student athlete or a sanction on an educational institution;

(15) Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under subdivision (a)(7), arising out of occupational or professional conduct;

(16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under subdivision (a)(7), as an athlete agent in any state;

(17) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) If the applicant is certified or registered by a professional league or players association:

(A) The name of the league or association;

(B) The date of certification or registration, and the date of expiration of the certification or registration, if any; and

(C) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) Any additional information required by the secretary of state.

(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the secretary of state:

(1) A copy of the application for registration in the other state;

(2) A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

(3) A copy of the certificate of registration from the other state.

(c) The secretary of state shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the secretary of state determines:

(1) The application and registration requirements of the other state are substantially similar to or more restrictive than this part; and

(2) The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(d) For purposes of implementing subsection (c), the secretary of state shall:

(1) Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this part; and

(2) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

49-7-2106. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in subsection (b), the secretary of state shall issue a certificate of registration to an applicant for registration who complies with § 49-7-2105(a) and who has submitted the requisite fee.

(b) The secretary of state may refuse to issue a certificate of registration to an applicant for registration under § 49-7-2105(a) if the secretary of state determines that the applicant has engaged in conduct that significantly adversely reflects on the

applicant's fitness to act as an athlete agent. In making the determination, the secretary of state may consider whether the applicant has:

- (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;

- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

- (4) Engaged in conduct prohibited by § 49-7-2114;

- (5) Had a registration as an athlete agent suspended, revoked, or denied in any state;

- (6) Been refused renewal of registration as an athlete agent in any state;

- (7) Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic sport, intercollegiate sport, or professional athletic event on a student athlete or a sanction on an educational institution; or

- (8) Engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the secretary of state shall consider:

- (1) How recently the conduct occurred;

- (2) The nature of the conduct and the context in which it occurred; and

- (3) Other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the secretary of state and by submitting the requisite fee. An application filed under this

section is a public record for purposes of title 10, chapter 7. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under § 49-7-2105(c) may renew the registration by proceeding under subsection (d) or, if the registration in the other state has been renewed, by submitting to the secretary of state copies of the application for renewal in the other state and the renewed registration from the other state. The secretary of state shall renew the registration if the secretary of state determines:

(1) The registration requirements of the other state are substantially similar to or more restrictive than this part; and

(2) The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this part is valid for two (2) years.

(g) Any registration pursuant to this part shall automatically expire, without notice, on the expiration date set forth on the registration.

(h) A certificate of registration issued to an athlete agent is not transferable.

(i)

(1) Notwithstanding this part to the contrary, in reviewing an application for registration or a renewal of registration, the secretary of state may request clarifying information from the applicant, including, but not limited to:

(A) Information concerning any criminal conviction reported pursuant to § 49-7-2105(a)(9);

(B) Information concerning any conduct resulting in sanction, suspension, or declaration of ineligibility of any student athlete or educational institution reported pursuant to § 49-7-2105(a)(14); and

(C) Information concerning denial, suspension, or revocation of registration or licensure reported pursuant to § 49-7-2105(a)(16).

(2) Failure to submit the information within thirty (30) days of the request is grounds for denial, revocation, or refusal to renew a certificate of registration pursuant to this section.

(3) No person shall act as an athlete agent for any purpose within this state pending submission of the clarifying information. A violation of this subdivision (i)(3) is a Class D felony.

49-7-2107. Suspension, revocation, or refusal to renew registration.

(a) After proper notice and an opportunity for hearing, the secretary of state may limit, suspend, revoke, or refuse to renew a registration of an individual registered under § 49-7-2106(a) for conduct that would have justified refusal to issue a certificate of registration under § 49-7-2106(b).

(b) After proper notice and an opportunity for hearing, the secretary of state may suspend or revoke the registration of an individual registered under § 49-7-2105(c) or renewed under § 49-7-2106(e) for any reason for which the secretary of state could have refused to grant or renew the registration, or for conduct that would justify refusal to issue a certificate of registration, under § 49-7-2106(b).

(c) A violation of this part shall be brought to the attention of the secretary of state by written complaint filed by any educational institution or student athlete aggrieved by the violation. If the secretary of state finds from the complaint that there is reasonable cause to believe a violation of this part has occurred, the secretary of state shall commence an athlete agent registration revocation or suspension proceeding. Such a proceeding shall be considered a contested case hearing and shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-7-2108. Temporary registration.

The secretary of state may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

49-7-2109. Registration and renewal fees.

(a) An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

- (1) Five hundred dollars (\$500) for an initial application for registration;
- (2) Five hundred dollars (\$500) for registration based on a certificate of registration issued by another state;
- (3) Two hundred dollars (\$200) for an application for renewal of registration; or
- (4) Two hundred dollars (\$200) for renewal of registration based on a renewal of registration in another state.

(b) All fees submitted for registration or renewal of registration pursuant to this part are nonrefundable regardless of whether the secretary of state issues or denies registration or renewal of registration.

(c) All fees collected pursuant to this part shall be used by the secretary of state to defray the costs of administering this part.

(d) In addition to the fees provided in subsection (a), an athlete agent, registered pursuant to this part, is subject to § 67-4-1702.

49-7-2110. Required form of agency contract.

(a) An agency contract must be in a record signed by the parties, or otherwise authenticated by the parties, in the presence of a notary public who shall duly notarize the contract.

(b) An agency contract must contain:

- (1) A statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;

(2) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;

(3) The name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the student athlete signed the contract;

(4) A description of any expenses the student athlete agrees to reimburse;

(5) A description of the services to be provided to the student athlete;

(6) The duration of the contract;

(7) The address of the athlete agent to which notices, including notice of cancellation pursuant to § 49-7-2112, shall be sent; and

(8) The date of execution.

(c) Subject to subsection (g), an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

**(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A
STUDENT ATHLETE IN YOUR SPORT.**

(d) An agency contract must be accompanied by a separate record signed and notarized by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

(e) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(f) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a duly signed and notarized copy in a record of the contract and the separate acknowledgement required by subsection (d).

(g) If a student athlete is a minor, an agency contract must be signed and notarized by the parent or guardian of the minor and the notice required by subsection (c) must be revised accordingly.

(h) Any contract executed pursuant to this section shall be governed by the laws of this state.

49-7-2111. Notice to educational institution.

(a) As used in this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than seventy-two (72) hours after entering into an agency contract, or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of

the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(c) A copy of the notice required pursuant to subsection (b) must be provided to the educational institution's general counsel.

(d) If the educational institution does not have an athletic director, the notice required pursuant to subsection (b) must be provided to the president of the educational institution.

(e) Not later than seventy-two (72) hours after entering into an agency contract, or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(f) A copy of the notice required pursuant to subsection (e) must be provided to the educational institution's general counsel.

(g) If the educational institution does not have an athletic director, the notice required pursuant to subsection (e) must be provided to the president of the educational institution.

(h) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two (72) hours after the agent knew or should have known the athlete enrolled.

(i) A copy of the notice required pursuant to subsection (h) must be provided to the educational institution's general counsel.

(j) If the educational institution does not have an athletic director, the notice required pursuant to subsection (h) must be provided to the president of the educational institution.

(k) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the athletic director of the educational institution of the relationship not later than ten (10) days after the enrollment, if the agent knows or should have known of the enrollment and:

(1) The relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(l) A copy of the notice required pursuant to subsection (k) must be provided to the educational institution's general counsel.

(m) If the educational institution does not have an athletic director, the notice required pursuant to subsection (k) must be provided to the president of the educational institution.

(n) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(2) Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(o) A copy of the notice required pursuant to subsection (n) must be provided to the educational institution's general counsel.

(p) If the educational institution does not have an athletic director, the notice required pursuant to subsection (n) must be provided to the president of the educational institution.

(q) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than ten (10) days after the communication or attempt.

(r) A copy of the notice required pursuant to subsection (q) must be provided to the educational institution's general counsel.

(s) If the educational institution does not have an athletic director, the notice required pursuant to subsection (q) must be provided to the president of the educational institution.

(t) An educational institution that becomes aware of a violation of this part by an athlete agent shall notify the secretary of state and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

49-7-2112. Student athlete's right to cancel.

(a) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than fourteen (14) days after the contract is signed.

(b) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not under any circumstances waive the right to cancel an agency contract, and any attempted waiver of the right to cancel shall be ineffective.

(c) If a student athlete, parent, or guardian cancels an agency contract, the athlete, parent, or guardian is not required to pay any consideration under the contract or

return any consideration received from the athlete agent to influence the athlete to enter into the contract.

49-7-2113. Required records.

(a) An athlete agent shall create and retain for five (5) years from the time of entering an agency contract records of the following:

- (1) The name and address of each individual represented by the agent;
- (2) Each agency contract entered into by the agent; and
- (3) The direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in subsection (a) are open to inspection by the secretary of state or the secretary's designee during normal business hours.

49-7-2114. Prohibited conduct.

(a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, shall not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

- (1) Give materially false or misleading information or make a materially false promise or representation;
- (2) Furnish anything of value to the athlete before the athlete enters into the contract; or
- (3) Furnish anything of value to an individual other than the athlete or another registered athlete agent.

(b) An athlete agent shall not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

- (1) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the

athlete, parent, or guardian to enter an agency contract unless registered under this part;

(2) Fail to create or retain or to permit inspection of the records required by § 49-7-2113;

(3) Fail to register when required by § 49-7-2105;

(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

(c) An athlete agent shall not:

(1) Fail to provide to the secretary of state any statements, documents, records, or testimony required by the secretary of state pursuant to § 49-7-2105 or the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(2) Fail to post the athlete agent's certificate of registration, or legible copy of the certificate, in each office in this state from which the athlete agent conducts business as an athlete agent; or

(3) Fail to provide proof of registration to any student athlete whom the athlete agent contacts.

49-7-2115. Criminal penalty.

An athlete agent who violates § 49-7-2114 is guilty of a Class E felony and, on conviction, is punishable by a fine of no more than twenty-five thousand dollars (\$25,000) or confinement for no less than one (1) year nor more than six (6) years, or both.

49-7-2116. Civil remedy.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this part. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) Suffers financial damage.

(b) A plaintiff that prevails in an action under this section may recover actual damages, treble damages, punitive damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

(c) A violation of this part is an unfair trade or deceptive practice for purposes of the Unfair Trade Practice and Advertising Act, compiled in title 47, chapter 25, part 9.

49-7-2117. Civil penalty.

The secretary of state may assess a civil penalty against an athlete agent not to exceed fifty thousand dollars (\$50,000) for a violation of this part.

49-7-2118. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

49-7-2119. Relation to Electronic Signatures in Global and National Commerce

Act.

This part modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.), but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. § 7003(b)).

49-7-2120. Severability.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

49-7-2121. Eligibility; impairment of contract.

Nothing in this part:

- (1) Prevents a student athlete from relinquishing the athlete's eligibility to compete in intercollegiate sports and then signing an agency contract; or
- (2) Impairs the validity of an agency contract entered into prior to July 1, 2001.

49-7-2122. Validity of existing permits.

Any person holding a permit in good standing as a sports agent in this state prior to July 1, 2001, shall be deemed an athlete agent and subject to this part. A permit in good standing shall be valid until the permit's regular annual renewal at which time the agent shall apply for a certificate of registration and shall pay all applicable fees pursuant to § 49-7-2109.

49-7-2123. Violation; cease and desist order; civil penalty; final order enforcement.

(a) If the secretary of state determines that a person has engaged in or is engaging in an act, practice, or course of business constituting a violation of this part or a rule adopted or order issued under this part, or that a person has materially aided or is

materially aiding in an act, practice, or course of business constituting a violation of this part or a rule adopted or order issued under this part, the secretary of state or the secretary's designee may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business, or to take other action necessary or appropriate to comply with this part or any rule or order promulgated under this part;

(2) Issue an order imposing an administrative penalty against an athlete agent who violated this part or any rule or order promulgated under this part; and

(3) Take any other action permitted under this part.

(b) An order issued under subdivision (a)(1) is effective on the date of issuance by the secretary. Upon issuance of the order, the secretary of state or the secretary's designee shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or other administrative remedy to be imposed under subdivision (a)(1), a statement of the costs of investigation the secretary of state will seek to recover, a statement of the reasons for the order, and a statement notifying the person of such person's right to a hearing under § 49-7-2107. If a person subject to the order does not request in writing a hearing within thirty (30) days of the date the order is issued and a hearing is not ordered by the hearing officer, the order, including the imposition of a civil penalty or requirement for payment of the costs of investigation, shall become final as to that person by operation of law.

(c) In a final order, the secretary of state or the secretary's designee may charge the actual cost of an investigation or proceeding for a violation of this part or a rule adopted or order issued under this part.

(d) If a petition for judicial review of a final order is not filed in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or the petition

is denied by the court, the secretary of state or the secretary's designee may file a certified copy of the final order with the clerk of a court in the jurisdiction where enforcement will be sought. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(e) If a person does not comply with an order issued under this section, the secretary of state or the secretary's designee may petition a court of competent jurisdiction to enforce the order and collect administrative civil penalties and costs imposed under the final order. The court shall not require the secretary of state to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may grant any relief the court determines is just and proper in the circumstances.

49-7-2124. Athletic scholarship; influence to accept; disclosure of relationship with institution; violation; penalty.

(a) Any person who, in this state, knowingly influences, or attempts to influence, any student athlete to accept an athletic scholarship that is offered by an educational institution from which such person receives any compensation or any other thing of value shall provide a written disclosure of such person's relationship with the educational institution to the student athlete concurrently with initially making such influence or attempt to influence. Any person who is required to disclose a relationship with an educational institution to a student athlete pursuant to this subsection (a) shall also provide, within seventy-two (72) hours of providing the written disclosure to the student athlete, a written disclosure of such relationship to the student athlete's parent or legal guardian, the secretary of state, and to the athletic director, president, and the general counsel of the educational institution from which such person has influenced or attempted to influence the student athlete to accept an athletic scholarship.

(b) This section does not apply to any person who is an employee of the educational institution for which such person influences or attempts to influence a student athlete to accept an athletic scholarship.

(c) Failure to provide a written disclosure as required by subsection (a) is a Class E felony punishable by a fine of no more than twenty-five thousand dollars (\$25,000) or confinement for no less than one (1) year nor more than six (6) years, or both.

(d) In addition to the criminal penalty provided in subsection (c), the secretary of state may assess a civil penalty pursuant to § 49-7-2117. Any hearing on the imposition of any fine pursuant to this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-7-2125. Student loan default; suspension, denial, and revocation of registration.

(a) As used in this section, unless the context otherwise requires:

(1) "Guarantee agency" means a guarantor of student loans that has an agreement with the United States secretary of education; and

(2) "TSAC" means the Tennessee student assistance corporation.

(b) Upon receiving a copy of a final order as provided in subsection (c) from TSAC or a guarantee agency, the secretary of state shall suspend, deny, or revoke the registration of any athlete agent or applicant who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(c)

(1) The secretary of state shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded

a debtor an opportunity to be heard in accordance with subdivision (c)(2); and the secretary of state shall rescind any disciplinary action and restore any registration upon receiving notice from TSAC or the guarantee agency that the debtor has agreed to serve the debtor's obligation or is in compliance with an approved repayment plan.

(2)

(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, deferment or forbearance, the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (b), or the debtor has failed to enter into a payment plan, agreed to a service obligation or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall issue to the debtor a notice of intent to file an order with the secretary of state to seek to suspend, deny, or revoke the debtor's registration. The notice shall:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's registration shall be suspended, denied, or revoked ninety (90) days after service unless within that time the debtor:

(a) Pays the entire debt stated in the notice;

(b) Enters into a payment plan, service obligation, or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency;

(c) Requests and qualifies for deferment, forbearance, or other satisfactory compliance; or

(d) Requests a hearing before TSAC or the guarantee agency.

(B) The hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether determination of delinquency or default, that could result in suspension, denial, or revocation of the debtor's registration. The debtor's registration may not be suspended, denied, or revoked until a determination is reached following the hearing. The issues that may be determined in the hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default;

(iii) Whether the debtor:

(a) Has entered into a payment plan or service obligation approved by TSAC or the guarantee agency;

(b) Is willing to enter into a payment plan or service obligation approved by TSAC or the guarantee agency; or

(c) Is willing to comply with a payment plan or service obligation previously entered into and approved by TSAC or the guarantee agency; and

(iv) Whether the debtor is eligible for deferment, forbearance, or other satisfactory compliance.

(D) If a debtor, without good cause, fails to respond to the notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit; and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial, or revocation and further requesting the secretary of state to order the debtor to refrain from engaging in athlete agent activities. TSAC or the guarantee agency shall send a copy of the order to the secretary of state and the debtor.

(E) The administrative hearings under this section shall be conducted in accordance with rules adopted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(F)

(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan, has entered into a service obligation, is otherwise in satisfactory compliance or has complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall enter an order requesting that the secretary of state terminate the order suspending, denying, or revoking the registration. TSAC or the guarantee agency shall send a copy of the order to the secretary of state and the debtor. Notwithstanding any other law, or rule to the contrary, when the registration is reinstated, the secretary of state shall not impose a reinstatement fee that exceeds fifty dollars (\$50.00).

(ii) Entry of an order seeking to terminate suspension, denial, or revocation of a registration does not limit the ability of

TSAC or the guarantee agency to issue a new order which seeks to suspend, deny, or revoke the registration of the same debtor in the event of another delinquency or default.

(G) TSAC is authorized to promulgate necessary rules and regulations to effectuate the purposes of this subsection (c). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act.

(d) The secretary of state is authorized to promulgate rules to effectuate the purposes of this section. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect on September 1, 2017, the public welfare requiring it.